

IN THE
UNITED STATES COURT OF CLAIMS

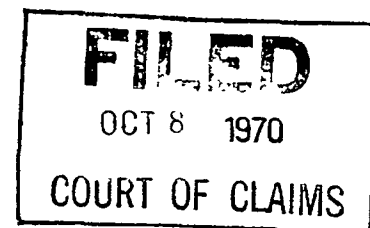
No. 343-70

1. CHEYENNE-ARAPAHO TRIBES OF INDIANS OF OKLAHOMA;
2. COLORADO RIVER INDIAN TRIBES;
3. CONFEDERATED TRIBES OF THE COLVILLE RESERVATION;
4. CONFEDERATED TRIBES OF THE COLVILLE RESERVATION as the representative of THE YAKIMA NATION;
5. CONFEDERATED TRIBES OF THE UMATILLA RESERVATION;
6. HOOPA VALLEY TRIBE;
7. HOOPA VALLEY TRIBE as the representative of THE INDIANS OF CALIFORNIA;
8. PYRAMID LAKE PAIUTE TRIBE;
9. SOUTHERN UTE TRIBE OR BAND OF INDIANS;
10. SOUTHERN UTE TRIBE OR BAND OF INDIANS as the representative of THE CONFEDERATED BANDS OF UTE INDIANS;
11. TE-MOAK BANDS OF WESTERN SHOSHONE INDIANS as the representative of THE WESTERN SHOSHONE NATION OF INDIANS; and
12. YANKTON SIOUX TRIBE OF INDIANS,

and each of the foregoing on behalf of
all other tribes, bands and identifiable
groups of American Indians similarly
situated,

Plaintiffs,

v.



THE UNITED STATES OF AMERICA,

Defendant.

PETITION

Mismanagement of Trust Funds Other than Judgment Funds Appropriated After August 13, 1946

COUNT I

1. This petition is filed pursuant to Title 28, U.S. Code, Sec. 1491; Section 24 of the Act of Congress of August 13, 1946 (60 Stat. 1049, 1055, 25 U.S. Code, Sec. 70w), as amended by the Act of Congress of May 24, 1949, c. 139, Sec. 89(a) (63 Stat. 102); Title 28 U.S. Code, Sec. 1505.

2. This petition does not seek to assert or bring against defendant any claim, or to recover any damages with respect to any claim, which is now pending before the Indian Claims Commission or this Court or any other court.

3. Each of the plaintiffs specifically named in the above caption is a tribe, band or other identifiable group of American Indians residing within the territorial limits of the United States.

4. Each of the above specifically named plaintiffs is, or was during or after 1965, the beneficial owner of, or has, or had during or after 1965, a beneficial interest in, (a) certain principal funds arising from sources other than appropriations by Congress after August 13, 1946, to pay judgments against the United States awarded under the Indian Claims Commission Act (60 Stat. 1049) or other Acts of Congress (said funds being hereinafter called "trust funds"), or (b) certain securities or other obligations purchased by defendant, or arranged by defendant to be purchased, with said trust funds (said securities or other obligations being hereinafter called "trust securities"), or (c) interest earnings on said trust funds or trust securities, which trust funds, trust securities and interest earnings defendant holds or held in its possession or in various accounts as a fiduciary, or over which trust funds, trust securities and interest earnings defendant exercises or exercised control or management as a guardian or trustee.

5. The said specifically named plaintiffs are members and representatives of a readily ascertainable class which includes more than two hundred other tribes, bands and identifiable groups of American Indians, each of which, like the specifically named plaintiffs, is, or was during or after 1965, the beneficial owner of, or has, or had during or after 1965, a beneficial interest in, said trust funds, trust securities or interest earnings, which

defendant holds, or held in its possession or in various accounts as a fiduciary, or over which defendant exercises or exercised control or management as a guardian or trustee. Said other tribes, bands and identifiable groups of American Indians that are similarly situated are so numerous as to make it impracticable to bring them all before the Court, for which reason the specifically named plaintiffs sue herein on behalf of all such similarly situated tribes, bands and identifiable groups of American Indians. There are questions of law and of fact common to all the specifically named plaintiffs and the similarly situated tribes, bands and identifiable groups for whose benefit defendant holds, controls or manages, or has held, controlled or managed said trust funds, trust securities or interest earnings. These common questions predominate over questions affecting only individual members of the class so as to make the class action superior to any other method of proceeding to adjudicate the claims herein presented fairly, efficiently and expeditiously. The claims asserted herein by the specifically named plaintiffs are typical of the claims of the similarly situated tribes, bands and identifiable groups, and the specifically named plaintiffs can and will fairly and adequately protect the interests of all the similarly situated tribes, bands and identifiable groups.

6. In breach of its obligations under various Acts of Congress, including, but not limited to, the Act of April 1, 1880, 21 Stat. 70, 25 U.S.C. 161 and the Act of June 24, 1938, 52 Stat. 1037, 25 U.S.C. 162a, and in violation of its fiduciary duties, or in the course of acting for its own benefit and advantage, the defendant is and has been mishandling, mismanaging and wrongfully and arbitrarily administering said trust funds, trust securities and interest earnings to its own unjust enrichment, or to the detriment, loss and damage of each of the above specifically named plaintiffs and the similarly situated tribes, bands and identifiable groups of American Indians on whose behalf this suit is brought, as hereinafter set forth.

7. Certain of the trust funds which are the subject of this action comprise or comprised moneys which the defendant holds or held in its treasury in various principal accounts, or moneys over which defendant exercises or exercised control or management, for each of the said tribes, bands and groups, on which moneys interest earnings were credited by defendant during 1965 and subsequent thereto at various rates of interest, including 4 per cent or a lesser rate of interest per annum.

8. During 1965 and at all times thereafter to the present time, by reason of changes in the money market, there were and have been readily available for acquisition with said trust funds and interest earnings, various public-debt obligations of the defendant and its agencies, including

bonds, notes, bills, securities and other obligations which are unconditionally guaranteed by the defendant as to both principal and interest, as well as bank certificates or obligations secured by bonds or other collateral unconditionally guaranteed by defendant as to both principal and interest, carrying interest rates significantly higher than the said rates at which interest was actually credited.

9. In breach of its obligations and in violation of its fiduciary duties, the defendant mishandled and wrongfully administered said trust funds, or portions thereof, by borrowing them for its own purposes and benefit at the said lesser interest rates, or by failing to invest or reinvest or arrange to invest or reinvest them in said obligations, bonds, notes, bills, securities and certificates carrying the higher interest rates.

COUNT II

10. Plaintiffs reallege Paragraphs 1 through 8 as though set forth in full.

11. Defendant invested or reinvested, or arranged or permitted the investment or reinvestment of, certain of the trust funds which are the subject of this action in certain trust securities, including various public-debt obligations of the defendant and its agencies, unconditionally guaranteed by the defendant as to both principal and interest, as well as bank certificates or obligations

secured by bonds or other collateral unconditionally guaranteed by defendant as to both principal and interest. Said investments or reinvestments were made by defendant wrongfully or for its own benefit and purposes, or to the detriment of the said tribes, bands and groups, or in breach of its obligations and in violation of its fiduciary duties, in that at the time they were made other securities or obligations of the same or similar type and nature and similarly guaranteed by defendant as to both principal and interest were readily available for investment at significantly higher rates.

COUNT III

12. Plaintiffs reallege Paragraphs 1 through 8 hereof as though set forth in full.

13. In breach of its obligations and in violation of its fiduciary duties, defendant mishandled said trust funds and trust securities or portions thereof in that it wrongfully and negligently delayed for unreasonable periods of time in making investments and reinvestments thereof.

COUNT IV

14. Plaintiffs reallege Paragraphs 1 through 8 hereof as though set forth in full.

15. Certain of the interest earnings which are the subject of this action comprise or comprised moneys credited by defendant on balances of said trust funds carried on the books of defendant. Defendant arbitrarily deposited or held said moneys in noninterest-bearing accounts, or invested or reinvested portions of said moneys in trust securities at certain rates of interest when other trust securities were readily available for investment or reinvestment at significantly higher interest rates. In breach of its obligations and in violation of its fiduciary duties, defendant wrongfully borrowed portions of said moneys for its own purposes and benefit without paying any interest thereon, or held portions of said moneys in unproductive accounts for unreasonable periods of time and failed to invest or reinvest said moneys so as to produce the highest available interest earnings, or delayed for unreasonable periods of time in crediting or depositing said moneys and in making investments or reinvestments thereof.

COUNT V

16. Plaintiffs reallege Paragraphs 1 through 8 hereof as though set forth in full.

17. Certain of the interest earnings which are the subject of this action comprise or comprised (a) moneys which defendant credited as interest earned on trust securities which were public-debt obligations of the defendant,

or (b) moneys collected from various sources by defendant as interest earned on trust securities which were obligations of private banking institutions or federal agencies. Defendant arbitrarily deposited and held said moneys in noninterest-bearing accounts, or invested or reinvested portions of said moneys in trust securities at certain rates of interest at a time or times when other trust securities of the same or similar nature were readily available for investment or reinvestment at significantly higher interest rates. In breach of its obligations and in violation of its fiduciary duties, defendant wrongfully borrowed said moneys for its own purposes and benefit without paying or crediting any interest thereon, or held said moneys in unproductive accounts for unreasonable periods of time and failed to invest or reinvest said moneys so as to make them productive at the highest available rate of interest, or delayed for unreasonable periods of time in crediting or depositing said moneys and in making investments or reinvestments thereof.

CLAIMS FOR RELIEF

18. Based on each and all of the foregoing allegations, plaintiffs assert that defendant has not fulfilled its aforesaid obligations and fiduciary duties or has performed them wrongfully, negligently and arbitrarily, or

has unjustly enriched itself, and that substantial sums are due and owing by defendant to each of the above specifically named plaintiffs and each of the other tribes, bands and groups similarly situated on whose behalf this suit is brought.


19. WHEREFORE, each of the above specifically named plaintiffs prays on its own behalf and on behalf of each of the other tribes, bands and groups similarly situated;

(a) for a determination that defendant is liable to make payment to each of them by way of damages for the injuries and losses caused to each of them;

(b) upon determination of such liability, for an order directing the defendant to render a separate accounting as to each of them for the purpose of enabling the Court to determine the amount of damages which each of them is entitled to recover;

(c) for a determination of the amount of the damages to each of them; and

(d) for such other and further relief for each of them as the Court may deem just.


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2. Colorado River Indian
Tribes;
3. Confederated Tribes of the
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4. Confederated Tribes of
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the representative of
The Yakima Nation; and
8. Pyramid Lake Paiute Tribe

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 5. Confederated Tribes of the Umatilla Reservation;
 6. Hoopa Valley Tribe;
 7. Hoopa Valley Tribe as the representative of The Indians of California;
 9. Southern Ute Tribe or Band of Indians;
 10. Southern Ute Tribe or Band of Indians as the representative of The Confederated Bands of Ute Indians;
 11. Te-Moak Bands of Western Shoshone Indians as the representative of The Western Shoshone Nation of Indians; and
 12. Yankton Sioux Tribe of Indians

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